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March 17, 2022

Hon. Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

RE: Withdrawal of Motion to Intervene in *SingularDTV GmbH v. Doe*, No. 1:21-cv-06000 (VEC)

Dear Judge Caproni:

As the Court is aware, we represent Plaintiff SingularDTV GmbH ("SingularDTV" or the "Company") in *SingularDTV GmbH v. LeBeau, et al.*, No. 1:21-cv-10130 (VEC) (the "*LeBeau* Action") and filed a Motion to Intervene or, in the Alternative, Substitute Counsel (the "Intervention Motion," Dkt. Nos. 11–15) on behalf of the Company in *SingularDTV GmbH v. Doe*, No. 1:21-cv-06000 (VEC) (the "*Doe* Action"). We write to briefly explain the Company's decision to withdraw its Intervention Motion in the *Doe* Action. (*See* Dkt. No. 35.)

As this Court knows, Morrison-Tenenbaum PLLC ("Morrison-Tenenbaum") currently purports to represent the Company in the *Doe* Action. As ordered by the Court (*see* Dkt. No. 34), we have conferred with Morrison-Tenenbaum regarding discovery for the Intervention Motion, as well as the possibility of working jointly with Morrison-Tenenbaum on the remaining steps, if any, the Company might take through the *Doe* Action. Those discussions demonstrated that Morrison-Tenenbaum (a) intends to conduct extensive, costly discovery in connection with the Intervention Motion, and (b) has no concrete sense of what relief (if any) it intends to ultimately seek through the *Doe* Action, nor any reasonable, cost-effective plan to pursue that relief.[1] Based on the trajectory of the case to date, the Company is concerned that the *Doe* Action will produce no relief at all, and certainly none that would justify the expense of conducting discovery, motion practice, and an evidentiary hearing to resolve the Intervention Motion. Accordingly, the Company has chosen to respectfully withdraw the Intervention Motion.

[1] During the meet-and-confer discussions, undersigned counsel repeatedly asked Morrison-Tenenbaum to identify what additional projects it would envision undertaking in the *Doe* action so that the Company could take those into account in considering logistics and scope for a potential joint representation. Morrison-Tenenbaum has refused to identify any such projects.

For the avoidance of doubt, the Company filed the Intervention Motion because none of its current officers or directors has authorized Morrison-Tenenbaum to undertake that representation or to take any other action on behalf of the Company. Morrison-Tenenbaum's own submissions indicate that it was retained by Kimberly Jackson, the Company's former COO. (*See, e.g.*, Pl.'s Mem. of Law in Opp'n (Dkt. No. 17) at 6.) But as the Company has made clear, Jackson:

- was removed as COO on May 8, 2021, by unanimous vote of the Company's Board (*see* Decl. of Michael Mráz (Dkt. No. 15) ¶ 9, Ex. 6); and
- even before her removal, lacked the signatory authority required under Swiss law to unilaterally engage and instruct counsel on the Company's behalf (*see id.* Ex. 3 ¶ 8).

For reasons the Company presented in its motion papers, Jackson has no right to engage or instruct Morrison-Tenenbaum on the Company's behalf, and Morrison-Tenenbaum lacks authority to continue purporting to represent the Company in the *Doe* Action. The Company does not consent to Morrison-Tenenbaum's purported representation, and it reserves all rights with respect to the *Doe* Action, including without limitation the right to reject any attempt by LeBeau, Jackson, or Morrison-Tenenbaum to make the Company financially responsible for their pursuit of the *Doe* Action.

Respectfully submitted,

/s/ Benjamin J. A. Sauter

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